APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,367	10/14/2004	Antonie Dijkhof	NL 020314	8678

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EXAMINER
SUN, SCOTT C

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
08/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _06 August 2008_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-5 and 7-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-5, 7-10_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

8/6/2008 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to the rejections made under 35 U.S.C. 112

are persuasive. Accordingly, the rejections are withdrawn,

3.   Applicant's arguments with respect to claims 1 and 8 have been considered but

are moot in view of the new ground(s) of rejection. Specifically, examiner notes that a

new reference, Higgins, is relied upon in rejection of the limitation, "the halting including

discarding an input data by said data source", as attached below.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ho et al (US Patent #7,170,856, hereinafter Ho) in view of Ribas-Corbera et al(Pub

US 2003/0053416, hereinafter Ribas-Corbera) further in view of Higgins et al (Patent

#6,587,480, hereinafter Higgins).

6.   Regarding claim 1, Ho discloses a method (figures 11 -13) of changing an output

rate of information for a buffer (jitter buffer 600 in figure 6) with a constant first output

rate (a constant bit rate, column 16, lines 50-53), where the buffer receives output data

from a data source (CBR data sources 110 and 150, column 1, lines 15-20), and the

output data is added to be stored in said buffer, characterized in that the method

comprises the steps of:

        halting the reception of output data from the data source (flushing the jitter buffer

when high threshold is reached, starting fresh with new packets, column 11, lines 64-

66);

        outputting the stored output data of said buffer at said first output rate until said

buffer is empty (column 12, lines 53-57);

        stopping outputting of the content of said buffer (waiting for data to accumulate

up to low threshold; column 11, lines 6-9);

        resuming receiving and storing of said output data from the data source in said

buffer when the buffer is substantially empty (re-accumulate data in buffer to be played

when low threshold is reached; column 12, lines 51-56);

setting a second constant output rate as the output rate of said buffer (increasing or decreasing bit rate, depending on if low or high threshold was reached; column 16, lines 25-57);

Ho does not disclose explicitly outputting at second output rate when the amount of buffered data is equal to the second constant output rate times a requested buffer-time. However, Ribas-Corbera teaches commencing output of the stored content of said buffer at said second output rate, when the amount of buffered data is substantially equal to the second constant output rate times a requested buffer-time (initial buffer fullness "F" is equal to buffer delay times transmission bit rate "R"). Teachings of Ho and Ribas-Corbera are from the same field of data buffering, and specifically multimedia data buffering, and specifically of buffer adjustment.

Therefore, it would have been obvious at the time of invention for a person of ordinary skill in the art to combine teachings of Ho and Ribas-Corbera by using the initial buffer amount calculation of Ribas-Corbera in the system of Ho for the benefit of dynamically and accurately adjusting to varying transmit conditions using relatively low bandwidth (paragraph 10, Ribas-Corbera).

Ho does not disclose explicitly halting includes discarding an input data by said data source. However, Higgins discloses discarding an input data by a data source (column 16, lines 2-8). Teachings of Ho, Ribas-Corbera and Higgins are from the same field of data buffering, and specifically multimedia data buffering, and specifically of buffer adjustment.

Therefore, it would have been obvious at the time of invention for a person of ordinary skill in the art to combine teachings of Ho, Ribas-Corbera and further with Higgins by dropping further input data in the system of Ho for the benefit of maintaining synchronization with the data decoder (in case of MPEG data, column 16, lines 6-8).

7.   Regarding claim 2, Ho and Ribas-Corbera combined disclose claim 1, and Ribas-Corbera further discloses wherein the data source specifies a second constant output rate and a requested buffer-time for said buffer (encoder sends data along with RBF parameters, "rate, buffer size, and initial fullness" to decoder, paragraph 8, 9).

8.   Regarding claim 3, Ho and Ribas-Corbera combined disclose claim 1, and Ho further discloses wherein the resuming of said output data is initiated when the buffer is empty (column 11, lines 6-9).

9.   Regarding claim 4, Ho and Ribas-Corbera combined disclose claim 1, and Ho further discloses wherein the data source is a software application adapted to receive and process input data and outputting of said output data (column 17, lines 34-36).

10.   Regarding claim 5, Ho and Ribas-Corbera combined disclose claim 1, and Ho further discloses wherein the buffer is a hardware buffer (column 9, lines 48-49).

11.   Regarding claim 7, Ho and Ribas-Corbera combined disclose claim 1, and Ribas-Corbera further discloses wherein the input data are MPEG2 compliant elementary streams and the data source is adapted to multiplex the MPEG2 streams in to a transport stream (paragraph 2, 10).

12.   Regarding claims 8-10, examiner notes that these claims are substantially similar to claims 1-4. The same grounds of rejection are applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT SUN whose telephone number is (571)272-2675. The examiner can normally be reached on Mon-Thu, 10:00am-8pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SS

/Ilwoo Park/
Primary Examiner, Art Unit 2182
8/17/2008